

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

Richard Earl Demond Smith, ) C/A No.: 7:19-177-BHH

Plaintiff, ) **ORDER AND OPINION**

)  
vs. )  
)

Allison M. Mobbs, Barry Barnett, Durham )

Cole, Jr., Travis McJunkin, Andrew J. )

Johnston, )

Defendants. )

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This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On March 7, 2019, the Magistrate Judge issued a Report and Recommendation recommending that this case be dismissed *with* prejudice and without issuance and service of process as Plaintiff failed to file an amended complaint within the time provided. (ECF No. 17.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made.

On March 21, 2019, the envelope containing the Order and Report and Recommendation of Judge McDonald (ECF Nos. 16 & 17) was returned and stamped “Return to Sender, Not Deliverable as Addressed, Unable to Forward,” along with a

handwritten “not here.” (ECF No. 19.) Plaintiff was advised by order filed on January 29, 2019 (ECF No. 8), of his responsibility to notify the Court in writing if his address changed. Plaintiff was also informed that his case could be dismissed for failing to comply with the Court’s order. (*Id.* at 3.)

Plaintiff filed no objections and the time for doing so expired on March 24, 2019. In the absence of objections to the Magistrate Judge’s Report and Recommendation, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee’s note).

Here, because no objections have been filed, the Court has reviewed the Magistrate Judge’s findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that Plaintiff’s claims against Defendant are subject to summary dismissal. Accordingly, the Report and Recommendation is adopted and incorporated herein by reference and this action is DISMISSED *with* prejudice.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks  
United States District Judge

April 23, 2019  
Greenville, South Carolina

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**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.